

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

BENJAMIN FRANKLIN SCOTT,

Petitioner,

v.

Civil Action No. 1:06CV163  
Criminal Action No. 1:02CR27  
(Judge Keeley)

UNITED STATES OF AMERICA,

Respondent.

**ORDER GRANTING PETITIONER'S UNOPPOSED  
MOTION TO CONTINUE HEARING**

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On July 27, 2007, the Court affirmed the Magistrate Judge's Report and Recommendation and scheduled an evidentiary hearing in this case for Friday, August 24, 2007 at 1:30 p.m. On July 30, 2007, however, counsel for the Government, Assistant United States Attorney, Robert H. McWilliams, filed a motion to continue the hearing because of his unavailability at the scheduled time. (Doc. No. 23 in 1:06CV163 and Doc. No. 81 in 1:02CR27). On August 6, 2007, this Court, upon motion of the Government, rescheduled the hearing until October 19, 2007 at 9:30 a.m.

On October 12, 2007, the Petitioner's attorney, Deanna Pennington, moved to continue the hearing for one to two weeks in order to allow her to meet with her client face to face and fully prepare for the hearing. In support of her motion, she asserts that she will not have had time to meet with her client before the hearing on October 19, 2007 because he has been incarcerated in New

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Jersey and had not yet arrived in this District as of the filing of her motion. The Government does not oppose the motion to continue.

The Court has been informed that the petitioner will be transported to this District on Wednesday, October 17, 2007 and will be housed at the North Central Regional Jail in Greenwood, West Virginia. The Court **ORDERS** the petitioner to remain housed at the North Central Regional Jail from October 17, 2007 until the hearing on November 1, 2007 to permit counsel to meet with him and prepare for the hearing.

For good cause shown, the Court **GRANTS** the Petitioner's unopposed motion and resets the previously scheduled evidentiary hearing for **November 1, 2007 at 9:00 a.m.** at the Clarksburg, West Virginia point of holding court.

It is so **ORDERED**.

The Clerk is directed to transmit copies of this Order to counsel of record, the defendant and all appropriate agencies.

DATED: October 16, 2007

/s/ Irene M. Keeley

IRENE M. KEELEY

UNITED STATES DISTRICT JUDGE